

March 1, 2017

Summary of February 16-17, 2017, Board Meeting

This is a summary of the February 16-17, 2017, meeting of the Iowa Board of Medicine.

Cases Reviewed: The Board reviewed 150 cases.

New Investigative Cases: The Board reviewed 90 new investigative cases.

Statement of Charges: Upon a determination by the Board that probable cause exists to take formal disciplinary action against a licensee, the Board may file a Statement of Charges which contains the allegations of the Board.

The Board approved one (1) Statement of Charges.

An Iowa-licensed physician who formerly practiced internal medicine in Clinton, Iowa, had formal disciplinary charges filed against him by the Board on February 17, 2017. The Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when he engaged in sexual misconduct, unethical or unprofessional conduct and professional incompetency while treating a female patient in Clinton, Iowa, in September 2016. The Board alleged that the physician touched the female patient's breasts and genitals in a sexual manner, and made comments of a sexual nature to the female patient, while performing physical examinations. The Board alleged that the physician touched the female patient's breasts and genitals in a sexual and/or unprofessional manner and made comments of a sexual nature to the female patient while purporting to perform physical examinations. The Board also alleged that the physician performed physical examinations on the female patient that were not the appropriate type of examination for her medical condition; failed to perform appropriate examinations, performed physical examinations without proper informed consent or permission, and performed physical examinations without a chaperone present. A hearing is scheduled on April 28, 2017.

Combined Statement of Charges and Settlement Agreements: If the Board determines that probable cause exists for formal disciplinary action against a licensee, the Board and the licensee may enter into a combined Statement of Charges and Settlement Agreement to resolve the matter. The combined Statement of Charges and Settlement Agreements contain the Board's allegations and the disciplinary sanctions.

The Board approved 2 combined Statements of Charges and Settlement Agreement.

1. An Iowa-licensed physician who practices orthopedic surgery in Davenport, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 17, 2017. The Board charged the physician with violating the

laws and rules governing the practice of medicine in Iowa when he made a surgical incision on the wrong hip. On October 23, 2015, the physician was scheduled to perform surgery to repair a patient's fractured right hip in Davenport, Iowa. The patient was erroneously positioned and the physician mistakenly made the incision on the left hip. The physician recognized the error after the incision was made, closed the wound and performed the surgical procedure on the right hip without incident. The physician informed the patient of the error immediately after the procedure. The physician reviewed this matter and has taken corrective action to avoid such errors in the future. Under the terms of the February 17, 2017, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$2,500 civil penalty. The physician also submitted a written corrective action plan to the Board describing the steps he has taken to avoid such errors in the future.

2. An Iowa-licensed physician who practices general medicine in Cedar Falls, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 17, 2017. The Board charged the physician with violating the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Cedar Falls, Iowa, between 2011 and 2016. Under the terms of the February 17, 2017, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also prohibited him from prescribing, administering or dispensing controlled substances for the treatment of chronic pain and ordered him to complete a Board-approved medical record keeping course. The Board also placed him on probation for a period of five years subject to Board monitoring including controlled substance prescribing audits.

Settlement Agreements: After the Board has determined that probable cause exists to take formal disciplinary action and formal disciplinary charges have been filed, the Board and the licensee may enter into a Settlement Agreement to resolve the pending disciplinary charges rather than hold a formal disciplinary hearing.

The Board approved 1 Settlement Agreement.

An Iowa-licensed physician who formerly practiced emergency medicine in Des Moines, Iowa, and Elkhorn, Nebraska, entered into a Settlement Agreement with the Board on February 17, 2017. On September 16, 2016, the Board filed formal disciplinary charges against the physician alleging that he violated the laws and rules governing the practice of medicine in Iowa when he failed to respond to or comply with a Board investigation despite numerous attempts to contact him. Under the terms of the February 17, 2017, Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$2,500 civil penalty. The physician also provided all of the information requested by the Board and appeared before the Board to discuss this matter.

Termination Orders: The Board issues Termination Orders when a physician successfully completes requirements of a disciplinary order including the terms of probation.

The Board approved 1 Termination Order.

An Iowa-licensed physician who practices pain medicine in West Des Moines, Iowa, had the requirement that he practice in a Board-approved practice setting with respect to his opioid prescribing terminated by the Board on February 17, 2017. On January 11, 2013, the Board charged the physician with engaging in professional incompetency, inappropriate prescribing and improper pain management in violation of the laws and

rules governing the practice of medicine in Iowa when failed to provide appropriate pain management to numerous patients in Des Moines, Iowa, in 2011 and 2012. A hearing was held on October 10-11, 2013. On December 12, 2013, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that the physician engaged in professional incompetency, inappropriate prescribing and improper pain management in violation of the laws and rules governing the practice of medicine in Iowa when failed to provide appropriate pain management to numerous patients in Des Moines, Iowa, in 2011 and 2012. The Board issued the physician a Citation and Warning and ordered him to pay a \$2,500 civil penalty. The Board also ordered the physician to practice medicine in a Board-approved practice setting with respect to his opioid prescribing and complete a Board-approved medical recordkeeping course. The Board also placed the physician on probation for a period of three years subject to Board monitoring including a practice monitoring plan and a worksite monitor. Recently, the physician asked the Board to terminate the requirement that he practice in a Board-approved practice setting with respect to his opioid prescribing. On February 17, 2017, the Board voted to terminate the requirement that the physician practice in a Board-approved practice setting with respect to his opioid prescribing and his Iowa medical license is returned to its full privileges, free and clear of all restrictions. The Board concluded that the physician has fully complied with the conditions established in the December 12, 2013, Findings of Fact, Conclusions of Law, Decision and Order.

Board Appearances: The Board may ask a licensee to appear before the Board to discuss concerns when the Board determines that a face-to-face meeting will assist the Board during the investigative process.

The Board met with 4 physicians to discuss the following concerns:

1. Concerns that a physician failed to provide appropriate supervision to a physician assistant and that a patient under the care of the physician assistant did not receive appropriate anticoagulation therapy management.
2. Concerns that a physician sent threatening or harassing text messages to a minor following the purchase of a cell phone.
3. Concerns that a physician performed an unnecessary revascularization procedure on a patient without an appropriate work-up and without proper informed consent.
4. Concerns that a physician failed to perform an appropriate examination and failed to order appropriate testing for a patient who suffered a cervical fracture after a fall.

Confidential Letters of Warning or Education: When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee the Board may send a confidential, non-disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 14 confidential Letters of Warning or Education due to the following areas of concern:

1. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a cervical fracture after a fall.
2. Concerns that a physician sent threatening or harassing text messages to a minor following the purchase of a cell phone.
3. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a heart attack.
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5. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a heart attack.
6. Concerns that a physician has failed to complete medical records in a timely manner.
7. Concerns that a physician failed to respond to an audit of the required continuing medical education required for renewal of licensure in Iowa in a timely manner.
8. Concerns about a physician's treatment of a patient with metastatic prostate cancer including patient selection and communication of the risks of treatment.
9. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a stroke.
10. Concerns about a physician's surgical treatment of a patient who underwent cardiovascular surgery and experienced serious postoperative complications.
11. Concerns about a physician's evaluation, testing and treatment of a patient who was diagnosed with lung cancer.
12. Concerns about a physician's evaluation and treatment of a patient who experienced a serious infection and improper amendment of the medical records.
13. Concerns that a physician failed to communicate abnormal test results with a patient in a timely manner.
14. Concerns that a physician refilled a medication that was contraindicated.

Monitoring Committee: The Monitoring Committee monitors licensees who are subject to a disciplinary order and require monitoring.

The Monitoring Committee reviewed 6 physicians who are being monitored by the Board and held 1 physician appearance.

Screening Committee: The Screening Committee reviews cases that are lower priority to determine whether investigation is warranted.

The Screening Committee reviewed 27 cases, closed 24 cases and left 3 cases open for further investigation.

Licensure Committee: The Licensure Committee reviews initial license applications, renewals and reinstatements and other licensure policies and issues. Most license applications are approved by Board staff without Licensure Committee review. However, some applications raise concerns about an applicant and the Licensure Committee must review the matter to determine whether a license should be granted, renewed or reinstated.

Committee Work:

- The Committee reviewed 2 licensure applications. One special license was granted and one application was left open to obtain further information or allow the applicant to withdraw.
- The Committee recommended the Board grant a request for waiver of IA Administrative Code 653-10.4(2)f which requires applicants for a special license to have practiced for five years outside of postgraduate training. The Board approved the Committee's recommendation. A special license allows practice by a highly specialized physician who is appointed as an academic staff member of a college of medicine when the physician does not meet qualifications for permanent licensure.
- The Committee approved 2 Letters of Warning that were issued due to concerns that the applicants failed to provide truthful, accurate or complete information on the applications.

- **Committee Discussion Items:**

- Affidavit and Authorization of Release of Information Form

- The Committee reviewed and approved several updates to the Affidavit and Authorization for Release of Information form including clarifying language that the applicant must be in the physical presence of the notary and the applicant must complete their own application for licensure in Iowa.

In other action the Board:

- Received a report from the Iowa Physician Health Program, which monitors physicians with mental health issues, physical disabilities or substance use disorders. The program had 49 active participants and 10 potential participants in the review process on January 31.
- Received reports from the Iowa Attorney General's Office on two disciplinary cases under judicial review.

A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on February 22, 2017. If you have any questions about this summary or the press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or kent.nebel@iowa.gov.